

REMARKS

In the Office Action, the Examiner required restriction, under 35 U.S.C. §121 and §372, to one of the following inventions:

- I. Claim 5, in part, drawn to the compound and composition thereof formula (I) where Z is CH and Y is OCH<sub>3</sub>, and wherein A, X<sub>1</sub>, X<sub>2</sub>, X<sub>3</sub>, X<sub>4</sub>, X<sub>5</sub> and n as defined in Claim 1.
- II. Claim 5 in part, drawn to the compound and composition thereof formula (I) where Z is N and Y is OCH<sub>3</sub>, and wherein A, X<sub>1</sub>, X<sub>2</sub>, X<sub>3</sub>, X<sub>4</sub>, X<sub>5</sub> and n as defined in claim 1.
- III. Claim 5 in part, drawn to the compound and composition thereof formula (I) where Z is N and Y is NH<sub>2</sub>, and wherein A, X<sub>1</sub>, X<sub>2</sub>, X<sub>3</sub>, X<sub>4</sub>, X<sub>5</sub>, and n as defined in Claim 1.
- IV. Claims 6-10 in part, drawn to the process of preparing the compound of formula (I) of Group I.
- V. Claims 6-10 in part, drawn to the process of preparing the compound of formula (I) of Group II.
- VI. Claims 6-10 in part, drawn to the process of preparing the compound of formula (I) of group (III).
- VII. Claim 14 in part, drawn to the method of using the compounds of Group I, and linked with the inventions of Claims 11-13 and 15-20.
- VIII. Claim 14 in part, drawn to the method of using the compounds of Group II, and linked with the inventions of Claim 11-13 and 15-20.
- IX. Claim 14 in part, drawn to the method of using the compounds of Group III, and linked with the inventions of Claims 11-13 and 15-20.

Applicants hereby elect Group I with traverse. Specifically, Applicant elects as a species of Group I, compound No. 142, (Example 4) and lists claims 1-5 as reading on the elected species.

It is the position of the Applicant that the restriction requirement is not proper because under PCT Rule 13.1 there is unity of invention. In particular, it is requested that the Examiner consider the PCT Administrative Instructions, Annex B, Part 2, Examples 1 and 18 which specify examples of situations where there is unity of invention. In addition, PCT Rule 13.1 does not provide for the imposition of an election of species requirement.

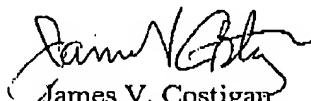
The Examiner has urged that the formula for U.S. 5, 545,664 (the '664 patent) includes the features of applicant's genus for formula I.

Reconsideration of the holding that the '664 patent discloses the claimed compounds.

The compound having a general formula (I), as defined in claim 1 is a novel compound that is different than the compound cited by the Examiner as the formula of the '664 patent. In particular, the compound of formula (I) claimed in the present application does not have the group which is defined as  $R^1O-N=C-R^4$  in the '664 patent. For this reason, the applicants' compounds, as defined by the generic structure of formula (I) are novel compounds and the '664 does not negate the novelty of the claimed compounds. Therefore, it is not proper to urge that there is a basis for urging that there is a lack of unity of invention in the present application.

An early and favorable action is earnestly solicited.

Respectfully submitted,



James V. Costigan  
Reg. No. 25,669

Hedman & Costigan, P.C.  
1185 Avenue of the Americas  
New York, NY 10036  
212-302-8989